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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

To: The Honorable Angus L.K. McKelvey, Chair
and Members of the House Committee on Consumer Protection & Commerce

The Honorable Karl Rhoads, Chair
and Members of the House Committee on Judiciary

Date: Wednesday, March 25, 2015
Time: 2:00 P.M.
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 519, S.D. 2, H.D. 1, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 519, S.D. 2, H.D. 1, but respectfully opposes section 4 of this measure which extends Act 326, Session Laws of Hawaii 2012 (Act 326). The Department provides the following information and comments for your consideration.

S.B. 519, S.D. 2, H.D.1 grants the Department the authority to issue cease and desist citations to operators of transient accommodations who fail to display their Transient Accommodations Tax license (TAT license) on the premises of the transient accommodation or in online advertisements of the transient accommodation. This measure also extends Act 326 for one year, and requires the Department to submit an annual report to the Legislature on the Act's implementation. H.D. 1 is effective upon approval.

As stated above, the Department respectfully opposes the extension of Act 326 as set forth in section 4 of this measure. While the Department supports the State's effort to address unlawful transient accommodations, most of the requirements in Act 326 are insufficient to adequately address all issues raised by illegal transient accommodations and are not directly related to the Department's tax collection function. For this reason, the Department respectfully requests that section 4 of this measure be deleted, and Act 326 be allowed to sunset.

The Department does, however, support section 2 of this measure, which adds the provisions related to fines for failure to display TAT license numbers in section 237D-4, Hawaii

Revised Statutes. The previous committee adopted the Department's suggested amendments to section 2. The Department appreciates consideration of its suggested amendments.

Thank you for the opportunity to provide comments.



HAWAI'I LODGING & TOURISM
A S S O C I A T I O N

Testimony of George Szigeti
President & CEO
HAWAI'I LODGING & TOURISM ASSOCIATION
House Committees on CPC/JUD
Hearing on March 25, 2015, 2:00 p.m.
SB 519 SD2 HD1 - Relating to Taxation

Dear Chairs, Vice Chairs, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawai'i Lodging & Tourism Association.

The Hawai'i Lodging & Tourism Association (HLTA) is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms that benefit from and strengthen Hawai'i's visitor industry. Our membership includes over 150 lodging properties, representing over 50,000 rooms, and over 400 other Allied members. The visitor industry was responsible for generating \$14.9 billion in visitor spending in 2014 and supported 170,000 jobs statewide – we represent one of Hawai'i's largest industries and a critical sector of the economy.

On behalf of HLTA, permit me to offer comments regarding SB 519 SD2 HD1 which extends Act 326, SLH 2012, for one year. Requires DOTAX to submit an annual report to the legislature on the implementation of Act 326, SLH 2012. Authorizes DOTAX to enforce civil penalties for operators and plan managers who fail to display the certificate of registration and registration ID numbers for transient accommodations. Authorizes fines to be deposited into the Tax Administration Special Fund.

The Hawai'i Lodging & Tourism Association supports the intent of Senate Bill 519 SD2 HD1. Act 326, session laws of Hawai'i 2012, offers to create parity between the individually advertised vacation rentals and the rest of the lodging industry, by requiring businesses who furnish transient accommodations to register with the Department of Taxation (DoTAX) and display their registration number on advertisements.

We however, wish to strengthen the scope of Act 326 and support the submitted language from Outrigger Enterprises Group, as well as ask that the committees extend Act 326 back to the 5 years stated in SD2.

Thank you for this opportunity to testify.



Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

SB519 SD2 HD1

Relating To Taxation

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

COMMITTEE ON JUDICIARY

Wednesday, March 25, 2015, 2pm

Conference Room 325

Dear Chairs McKelvey and Rhoads; Vice Chairs Woodson and Buenaventura; and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 150 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 20,000 local residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA **supports with comments** SB519 SD2 HD1 which extends Act 326, SLH 2012, for one year. Requires DOTAX to submit an annual report to the legislature on the implementation of Act 326, SLH 2012. Authorizes DOTAX to enforce civil penalties for operators and plan managers who fail to display the certificate of registration and registration ID numbers for transient accommodations. Authorizes fines to be deposited into the Tax Administration Special Fund.

MHLA **supports** this measure with the following suggestions:

- Extending the Act back to 5 years as previously written.
- Put more responsibility on the online marketers by adding the following:
 - Require online marketers to list GET/TAT numbers on any Individual Advertised Units (IAU) Hawaii listing and as a condition of listing.
 - Require IAU Hawaii property online listings to include a specific disclosure as to state and county IAU-related law and requirements.
 - Require IAU owners however marketed/rented to include specific disclosure statement as to key management, safety, other info.

Thank you for the opportunity to testify.



March 25, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

I am Dan Monck, here to testify on behalf of the Hawai'i Association of Vacation Rental Managers ("HAVRM").

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggested changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that ***"Nothing in this section shall be deemed to create an employer - employee relationship"*** between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,



Dan Monck
President
Hawaii Association of Vacation Rental Managers
www.HAVRM.org

State of Hawaii Real Estate Commission Bulletin

November 2013



contents

Off-Island "Agent"-
Licensee or Non-licensee?
(1)

The Chair's Message
(2 – 3)

Act 326 Website
(3)

Administrative Actions
(4 – 8)

Statutory Rules/
Violations
(8 – 9)

Core B 2013 – 2014
(9)

Real Estate Branch
Welcomes Two New
Members
(9)

Interesting Numbers From
The Commission
(10)

Prelicense Schools/
Continuing
Education Providers
(11)

Real Estate Commission
Meeting Schedule
(12)

Off-Island "Agent" – Licensee or Non-licensee?

When Act 326, Session Laws of Hawaii 2012, was passed, the Real Estate Branch received many calls from licensees who did not understand Act 326, especially the "Local Contact" identified within this Act, and whether or not this "Local Contact" fulfills the off-island agent requirement as stated in Hawaii Revised Statutes ("HRS") Chapter 521, the Residential Landlord-Tenant Code. If you are offering to rent property owned by an off-island owner, an on-island agent is required by HRS §521-43(f), the Residential Landlord-Tenant Code. "Agent" is not defined in Chapter 521, HRS.

The "Local Contact" defined in Act 326 pertains to HRS Chapter 237D, Transient Accommodations Tax. The "Local Contact" individual is an on-island individual who must register with the Department of Taxation to assist in the collection of taxes regarding the rental property. Act 326, and its "Local Contact" is not necessarily the individual who may act as an on-island agent for off-island rental property owners.

"Agent" is also not defined in HRS Chapter 467, the real estate brokers and salespersons licensing law. As used in HRS 521, "off-island agent" is not defined in Chapter 467. For an off-island property owner, landlord, trustee, or a person with the power of attorney from the owner, who is offering to rent Hawaii property, if the on-island agent is also involved in real estate activities, this on-island agent needs a real estate license.

An "on-island" agent may be one of the following:

- a) Hawaii-licensed real estate broker or salesperson; or
- b) "Custodian or caretaker" – "custodian or caretaker" is one of the exceptions to requiring a real estate license, and is defined in Chapter 467, HRS, and reads, "Custodian or caretaker" means any individual, who for compensation or valuable consideration, is employed as an employee by a single owner and has

the responsibility to manage or care for that real property, left in the individual's trust; provided that the term, "custodian" or "caretaker" shall not include any individual who leases or offers to lease, rents or offers to rent, any real estate for more than a single owner; provided further that a single owner shall not include an association of owners of a condominium, cooperative, or planned unit development." (emphasis added)

The "custodian or caretaker" exemption is an unlicensed individual, who for a single owner, manages or cares for the single owner's property. The single owner may be an individual or an entity. The single owner must employ the custodian or caretaker. Information on employing another individual may be obtained from the State Department of Taxation and the State Department of Labor and Industrial Relations. There will likely be other considerations when employing the custodian or caretaker such as requirements for unemployment insurance, workmen's compensation insurance, temporary disability insurance, vacation and sick pay, etc. Single owners may own more than one real property. If the single owner is an entity, however, the entity employing a custodian or caretaker must be licensed as a real estate broker or hire a licensed real estate broker to manage the single owner's property. The exceptions to having a real estate license as listed in HRS §467-2 are for individuals, NOT entities.

Real estate licensees listing and selling investment or rental properties should disclose to potential buyers and the licensees representing them, the requirement for an on-island agent if the buyer of a rental property does not or will not reside on the island where the property is located.

The on-island agent may be a non-licensee or a real estate licensee. Again, depending what the non-licensee on-island agent DOES will determine if the on-island agent requires a real estate license.



March 23, 2015

Honorable Representative McKelvey and Honorable Representative Rhoads
Honorable Members of the House Committees on Consumer Protection and Commerce and Judiciary

Re: SB519 SD2 HD1

Rental by Owner Awareness Association is pleased to fully **SUPPORT** with comments SB519 SD2 HD1.

We recommend that the 5 year expiration date be reinstated to this bill. The extension of Act 326 is, quite simply, the best mechanism to govern the array of transient accommodation offerings in the state of Hawai'i. It is fair to the owner-operators, it provides the Department of Taxation with necessary tools to ensure proper tax collection and provides for the appropriate level of consumer protection. **By extending Act 326 for 5 years, the DoT will have sufficient time to gather data and implement enforcement programs. One year is not enough time.**

We note the recommendation from the Tourism committee to consider the San Francisco approach to transient accommodation. **We recommend proceeding cautiously as the issues in San Francisco and Hawaii are very different.** San Francisco is geographically a small city with high density population and a higher percentage of renters. Hawaii, as a state, has different needs across the counties. Maui and Kauai have developed great solutions for their needs. Hawaii is much more dependent on vacation tourism than San Francisco, which is more based on corporate travel and conventions.

George Szigeti, President of the Hawaii Lodging and Tourism Association, in his testimony to the Senate committee hearing this bill, supported SB519, stating that it creates parity between the individually advertised vacation rentals and the rest of the lodging industry.

The only opposition you may hear is from the vacation property managers who are hired by property owners to handle their properties. They will argue Act 326 should require a real estate licensee to provide consumer protection and tax collection. They stand to gain handsomely if Act 326 is rescinded.

The existing legislation is simple.

HRS 467-2(1) provides that an owner can act as a real estate broker for his or her own property. This means that an owner can rent, lease, sell and manage his/her own property.

HRS 521-43 (the landlord tenant act) requires that "Any owner or landlord who resides without the State or on another island from where the rental unit is located shall designate on the written rental agreement an agent residing on the same island where the unit is located to act in the owner's or

landlord's behalf." HRS 521 does not define "agent" and so the definition is inherent in this clause – i.e. resident on island. It does not say the agent is an employee, a caretaker, a custodian or a real estate agent.

Third, Act 326 Session 2012 defines local contact as "an individual or company contracted by the operator of the transient accommodation to provide services required by this section. Nothing in this section shall be deemed to create an employer-employee relationship between an operator and its local contact." Act 326 states that transient accommodations are governed under the landlord-tenant code. The local contact is not a licensed real estate agent. The "local contact" in Act 326 and "agent" in HRS 521 are the same position, just with different names. Neither are permitted to perform the functions of a real estate licensee, but exist for consumer protection.

An owner can rent and manage his/ her own property and must engage a local contact or agent resident on island if the owner lives off-island. If the owner elects not to manage her own property, the real estate code and the landlord tenant state that either a custodian / caretaker (who, under the real estate code can only work for one owner and is not a real estate broker), a Condo Hotel operator or a real estate broker must be engaged only if the owner does not self-manage her property.

The roles referred to as "on-island agent" or "local contact" can be filled by either a real estate licensee or any resident depending on what functions the agent DOES. RICO and the REC both agree on this point.

RBOAA is pleased to **SUPPORT** SB519 SD2, including the extension of the sunset provision for five years, the annual report from the Department of Taxation and the reasonable penalties for those who do not comply, but does not support the San Francisco solution.

Mahalo for your work and dedication to the people of Hawai'i

Aloha

Neal Halstead
Vice-President, RBOAA

WHAT DO YOU NEED TO KNOW?

Hawaii's Residential Landlord-Tenant Code. Hawaii's Residential Landlord-Tenant Code covers the rights and obligations of landlords and tenants who rent on a month-to-month, week-to-week, or other term lease basis. A property owner who rents or leases his/her own property *must* comply.

Housing discrimination in Hawaii. Hawaii law prohibits, among other things, discrimination when renting or leasing property. Protected categories include race, sex, disability, familial status, religion, color, ancestry/national origin, age, marital status, and HIV infection.

State and county tax laws. Property owners must also comply with applicable state and county tax laws, including Hawaii's Transient Accommodations Tax law.

What should I do? To start, read and review Chapters 237, 467, 515, and 521 of the Hawaii Revised Statutes (and their related rules). A link to some of the Hawaii Revised Statutes can be found at hawaii.gov/hirec.

RICO is the enforcement arm for over forty-five professional boards, commissions, and programs that are administratively attached to DCCA. RICO receives complaints, conducts investigations, and prosecutes licensing law violations. RICO also prosecutes unlicensed activity through the issuance of citations and by filing civil lawsuits in the Circuit Courts. RICO works to resolve consumer complaints where appropriate and provides consumer education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program (SCAP) for "lemon" motor vehicle claims.

For More Information:

For questions about when a real estate license may be required, contact the Hawaii Real Estate Commission's Real Estate Branch at (808) 586-2643. Publications like "Working with a Real Estate Broker" and links to Department of Tax bulletins and more are available at hawaii.gov/hirec.

To report unlicensed real estate activity, call the Regulated Industries Complaints Office's Consumer Resource Center at (808) 587-4272, or visit the RICO website at cca.hawaii.gov/rico.

To check licensing status or for information about hiring a licensed professional, call (808) 587-4272, or visit the RICO website at cca.hawaii.gov/rico.

To obtain a copy of the Office of Consumer Protection's Handbook for the Hawaii Residential Landlord-Tenant Code, contact the Office of Consumer Protection at (808) 586-2634, or download it online at cca.hawaii.gov/ocp.

Neighbor island residents can call, toll-free, by dialing the following numbers, then the last 5 digits of the telephone number they wish to call, followed by the # sign. (Ex. To call the Real Estate Branch from Kauai, dial 274-3141, then 6-2643, then #.)

Kauai...274-3141
Maui... 984-2400
Hawaii..974-4000
Lanai...1-800-468-4644
Molokai. 1-800-468-4644

INFORMATION FOR OWNERS OF RENTAL PROPERTY



Department of Commerce and Consumer Affairs

Regulated Industries Complaints Office

235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico

(rev. 140925-REC-Rent)

WHAT ARE MY OPTIONS?

Property owners have some options when renting or leasing their property in Hawaii:

- ✓Self-manage the property
- ✓Employ a custodian or caretaker, or
- ✓Hire a licensed real estate professional

Self-Manage the Property

In the State of Hawaii, a real estate license is required to sell, buy, lease, and manage real property. The law provides an exception for individuals, and an individual *can* sell, buy, lease, and manage his/her own property without a real estate license.

If you decide to self-manage your property, you will need to be familiar with, and comply with, all applicable Hawaii laws. For example, under Hawaii's Residential Landlord-Tenant Code, if you offer to rent your property and live off-island, you'll need to find an **on-island agent** to act on your behalf. The on-island agent doesn't have to be a licensed real estate professional, unless he/she is involved in real estate activities, like renting or offering to rent the property.

If you're off-island, you'll also need to designate a **local contact** who resides on the same island as the transient accommodation. The local contact may be an individual or an entity with a principal place of business on the same island as the property. Because they are on the same island as the transient accommodation, the local contact may be able to assist with issues which may arise relevant to the transient accommodation. The on-island local contact doesn't have to be a licensed real estate professional, unless he/she is also involved in real estate activities, like renting or offering to rent the property.

Employ a Custodian or Caretaker

As an alternative, a property owner can hire a custodian or caretaker to manage or care for his/her property(ies). A "custodian" or "caretaker" doesn't need a real estate license, but must be *employed* by the owner, and can only work as a custodian or caretaker for a single owner. A custodian or caretaker can act as your on-island agent and/or the local contact, if one is required.

Hire a Licensed Real Estate Professional

If vetting tenants and collecting rent isn't for you, you should consider hiring a licensed real estate broker or salesperson. Although a licensed real estate professional will charge for services, here are some things to consider:

• **Familiarity with Hawaii's laws & rules**

Licensed real estate professionals are familiar with the various laws and rules that relate to managing real property in this State, including Hawaii's Landlord Tenant Code, state tax reporting requirements for transient accommodation operators, and Hawaii's fair housing laws.

• **Experience**

Sometimes there's no substitute for experience. Marketing the rental, collecting rent, handling maintenance and repair issues, responding to tenant inquiries and complaints, and handling evictions, are all part of the property management process. Getting help from a professional may save time, money, and headaches, in the end.

• **Manage geographically distant properties**

Because of Hawaii's unique geography, property owners who rent and lease property have additional obligations under Hawaii law. A licensed real estate professional can act as both your on-island agent and your local contact, if one is required.

What to look for:

Who should you hire? To start, you may want to (1) get referrals, (2) ask to speak with other, current clients, and (3) ask to see a sample property management agreement.

Be sure to check licensing and prior complaint history with the Regulated Industries Complaints Office.

DO I HAVE TO HIRE A LICENSED CONTRACTOR TO MAKE REPAIRS?

Yes. A contractor's license is required for any project valued at over \$1,000 for labor and materials, and, regardless of cost, whenever a building permit is required.

An electrician's license is required for electrical work. A plumber's license is required to perform plumbing work.

If you have questions about whether you need to hire a licensed contractor, a licensed electrician, or a licensed plumber, call the Contractor's License Board at (808) 586-2700 or the Board of Electricians and Plumbers at (808) 586-2698.

CAN I HIRE A "HANDYMAN"?

If the total cost of your project, including labor and materials, is less than \$1,000, and doesn't require a building permit, you can hire a handyman. "Handymen" usually perform minor repairs and projects that are typically described as "**odd jobs**" or "**fix-up tasks**."

Note: The so-called "handyman exemption" does not apply to electrical or plumbing work!



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Consumer Protection and Commerce
Committee on Judiciary

Testimony by
Hawaii Government Employees Association
March 25, 2015

S.B. 519, S.D. 2, H.D. 1 – RELATING TO
TAXATION

The Hawaii Government Employees Association supports the purpose and intent of S.B. 519, S.D. 2, H.D. 1. This important legislation will enhance the enforcement of our state's transient accommodations tax (TAT) on home-based vacation rentals. S.B. 519, S.D. 2, H.D. 1 requires operators of transient accommodations and plan managers of resort timeshare vacation plans to comply with registration requirements in advertisements. This legislation also increases penalties for operators and plan managers who do not comply with the law, including escalating civil penalties for repeat violators.

Tighter enforcement is necessary because illegal home-based vacation rentals are not paying their fair share of the TAT. The Hawaii Tourism Authority recently commissioned a study which revealed that home-based rentals account for 25% of all visitor lodging units statewide. The same survey found that there are more than 22,000 in-home vacation units statewide – more than 3 times the estimate of 6,943 in 2013. While the counties decide how to deal with the rapid growth of illegal vacation rentals, the State of Hawaii should collect TAT revenue from these properties to pay for the additional community services that are directly related to their use and lower the tax burden on local residents.

Until this particular market is better regulated at the county level, it is difficult to know how many millions of dollars to the state are lost from homeowners who are operating home-based vacation rentals and not paying the TAT. In the meantime, there must be enforcement of the TAT so that the playing field is level. It is only fair that anyone doing business as a lodging entity pay some form of the transient accommodations tax through proper taxation. The HTA study highlighted the scope of this problem. Now, state officials must respond with stricter enforcement of the TAT.

Thank you for the opportunity to testify in support of S.B. 519, S.D. 2, H.D. 1.

Respectfully submitted,


Randy Perreira
Executive Director



HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Representative Angus McKelvey, Chair

COMMITTEE ON JUDICIARY
Representative Karl Rhoads, Chair

3/25/2015

SB 519, SD 2, HD 1
Relating to Taxation

Chair McKelvey, Chair Rhoads and Members of both Committees, my name is Max Sword, here on behalf of Outrigger Enterprises Group in support to SB 519.

While we support SB 519, which extends Act 326, as well as adding a few more requirements to strengthen that same act, it still does not totally solve the issues of providing a level playing field for those who comply with the laws, such as paying GET, TAT, etc.

To strengthen Act 326 we suggest the following:

- a) Require online marketers to list GET/TAT numbers on any Individual Advertised Units (IAU) Hawaii listing and as a condition of listing.
- b) Require IAU Hawaii property online listings to include a specific disclosure as to state and county IAU-related law and requirements.
- c) Require IAU owners however marketed/rented to include specific disclosure statement as to key management, safety, other info.

These are the same type of requirements that they use in San Francisco, which had the same type of problems that we are facing now in Hawaii.

Also, we would request that Act 326 be extended t least 5 or more years.

Mahalo for allowing me to testify.



March 23, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary

State Capitol, Room 325
Honolulu, Hawaii 96813

RE: SB 519 SD2 HD1, RELATING TOTAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggests changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statues pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that **"Nothing in this section shall be deemed to create an employer - employee relationship"** between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to **everyone** in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of State are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Sincerely,

Amanda Steenman R(S)



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77-6425 Kuakini Hwy.
C2 PMB 80
Kailua-Kona, HI 96740

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March 25, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggested changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

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The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

**Suggested definition language for the "Local Contact" of SB 519 SD2 HD1 & ACT 326, Session Laws
2012**

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

A handwritten signature in black ink, appearing to read "Sue Fyffe". The signature is written in a cursive, flowing style.

Sue Fyffe



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www.hawaiiandreamproperties.com

March 23, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggested changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

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Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived “rights” to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii’s rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor’s safety, Hawaii Tourism, and Hawaii tax collection.

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Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the “Local Contact” of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

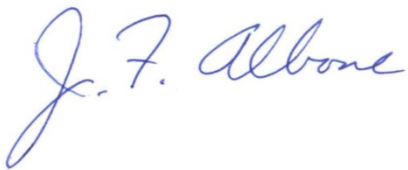
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** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo and Aloha,



Jim Albone – R(B) – Hawaiian Dream Properties



Condominium Rentals Hawaii

March 24, 2015

The Honorable Angus Mckelvey
House Committee on Consumer Protection and Commerce
Honolulu, HI 96713

RE: S. B. 519 SD2 HD1 RELATING TO TAXATION

Aloha, Chair Mckelvey, Vice Chair Woodson, and Members of the Committee:

In its current form, SB519 SB2 HD1 will do nothing other than extend Act 326 for one additional year. It will do nothing to improve consumer protection nor will it assist the Department of Taxation in collecting additional taxes.

The Department of Taxation (DOT) has stated in earlier testimony that "... most of the requirements in Act 326 are insufficient to adequately address all issues raised by illegal transient accommodations and are not directly related to the Department's tax collection function." I could not agree more, although I would be so bold as to state that "none" of the requirements are sufficient.

From a consumer protection stand point, you have housekeepers, friends, neighbors, and even children of housekeepers who are the designated "local contact". These individuals have no expertise or training in property management or in particular the many state and Federal laws pertaining to fair housing and land lord tenant codes.

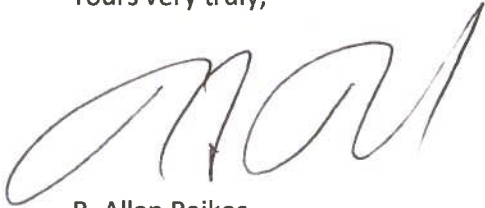
From a tax collection perspective, Act 326 and the changes proposed in SB519 are even more useless. At best, the DOT may be able to determine if an individual has a number listed on their website. It is a challenge to determine if the number posted actually belongs to the advertiser and virtually impossible to determine if this person is in fact paying some or all of their tax liability using the "tools" provided to the DOT in Act 326.

The solution, as outlined in testimony provided by the Hawaii Association of Vacation Rental Managers (HAVRM) is to refer to existing real estate law and require the "local contact" to be a licensed on island agent. These agents have the necessary knowledge and training to handle all aspects of the consumer protection, including holding consumers funds in a trust account and

address the tax concerns by providing taxing authorities with an annual form 1099 which accurately shows the gross rental proceeds earned on a given property.

Mahalo for the opportunity to submit testimony.

Yours very truly,

A handwritten signature in black ink, appearing to read 'RAR', with a large, sweeping initial 'R' and a stylized 'A' and 'R'.

R. Allan Raikes
President

RAR/nw



March 25, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggested changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

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We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

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or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Marisa Piazza
RS, Property Manager
Kohala Coast Properties Inc.



Dear Hawaii State Legislature,

This letter is written to COMMENT upon SB519 SD2

I am the owner and President of South Kohala Management (SKM), a property management firm handling over 100 vacation rentals in the resort communities of the Kohala Coast, on Hawaii Island since 1982. The tourism industry is a key industry in Hawaii and needs to be regulated effectively in order for our state to prosper. There is a lot of opportunity to increase occupancy at the local hotels and vacation rental properties across our island, but business is being siphoned away from these legal and professional tourism sectors to the exploding prevalence of "illegal" vacation rentals. The predominance of "illegal" vacation rentals on the Big Island's Kohala Coast are properties that are managed by the non-resident property owner from out of state, which violates Hawaii's Real Estate Code and Landlord Tenant Code, HRS 521 and HRS 467.

Illegal operators of vacation rentals are advertising properties for rent online, executing rental contracts from outside the state of Hawaii, collecting rental deposits that are not held in qualified trust accounts, and evading Hawaii taxes and laws for their own profit. Vacation rentals managed by local licensed businesses, like South Kohala Management, collect the GE and TA taxes (currently 13.416% on Hawaii Island) and have to compete against rentals that do not impose this mandatory tax. This has suppressed nightly rates for many years and the problem is growing. This situation is hurting all sectors of the lodging industry that are forced to compete with the illegal vacation rentals that don't charge these taxes and undercut our prices. The result is millions of dollars of lost revenue to Hawaii-based businesses and tax revenue to the state.

Local companies like SKM provide jobs, follow the laws, pay our taxes and provide a needed service in Hawaii's tourism and real estate industries. The state has been aware of the illegal vacation rental problem for years but very little if no enforcement has been demonstrated. Local workers are frustrated that the state holds us to the standards of the law (as it should) but does not do the same for out-of-state property owners and investors. Who does the state represent?

62-1210 Waiemi Place • Kamuela, Hawaii 96743

Main Office: (808) 883-8500 • Fax: (808) 883-9818 • Reservations: (800) 822-4252

Email: info@southkohala.com • www.southkohala.com

When Tax Act 326 was passed in 2012 it was a step in the right direction for the state of Hawaii to take a more serious stance on the enforcement and collection of these vital taxes for our state. But there was a critical flaw in the construction of Act 326 that almost single-handedly has done the opposite to curb these illegal rentals and instead has been cited as a justification for these out-of-state VR operators to expand their illegal business. The problem with Act 326 is the term "Local Contact" used in Section 2 to describe the on-island agent. By using a term to describe the on-island agent, Act 326 is at least acknowledging the need for this individual/entity, but the definition of "Local Contact" does not describe a legal operator of vacation rentals as dictated by the Hawaii Real Estate Code HRS 521 and the Hawaii Landlord Tenant Code HRS 467. The real estate law in Hawaii clearly states that an owner who does not reside on the same island as their property must appoint either:

- a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.*
- or*
- b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.*

The real estate law is very clear but the tax bill counterpart, Act 326, is not very clear. The purpose for my testimony is to plead with this Committee to change the definition of the term "Local Contact" in SB 519 SD2 and in Section 2 of Act 326 to be consistent with the requirements of the statutes that govern the renting or leasing of residential real estate in the state of Hawaii. The term "Local Contact" should be defined as, "a legal operator of a transient accommodation as governed by the Hawaii state Real Estate Code HRS 521 and the Hawaii Landlord Tenant Code HRS 467." This term "Local Contact" is single handedly provided a loophole for many of these illegal operators to cite when defending their rights to lease/offer for rent their Hawaiian property as a vacation rental from out-of-state with no appointed property manager or employee caretaker. It is important that the terminology be clear in the tax code because for many non-resident property owners, they have no familiarity with Hawaii real estate law, but do have an obligation to be knowledgeable about tax law and are liable for compliance.



Vacation rental managers in Hawaii are not asking for the law to be changed, we are asking for the law to be written clearly, properly communicated to property owners in Hawaii, and ENFORCED. Please support local law-abiding businesses and the efforts of HAVRM (Hawaii Association of Vacation Rental Managers) to make these needed corrections. It is imperative that the legislature and the DCCA hold ALL PERSONS ENGAGING IN BUSINESS IN HAWAII TO THE SAME STANDARDS WITH EQUAL APPLICATION AND ENFORCEMENT OF THE LAW. The interests of our local workers and the protection of our tourism industry are vital and worthy causes to fight for. Please don't allow Hawaii law to be something only locals must abide by while wealthy second homeowners get a free pass for their own profit.

Sincerely,

Malia Rozetta
President



March 25, 2015

The Honorable Angus McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

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**10 Hoohui Road Suite 110, Lahaina, Hawaii 96761 Office 808-669-0423
Toll Free 800-326-9874 Fax 808-669-8409 Email info@MauiResorts.com**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived “rights” to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii’s rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor’s safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their “Local Contact” are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State’s demonstrable record of aggressive “zero tolerance” enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the “Local Contact” within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code’s requirements for its “Local Contact” consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the “Local Contact” of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

*** Additional Suggestion:*

Whistleblower fee so enforcement can be seriously enhanced!

**10 Hoohui Road Suite 110, Lahaina, Hawaii 96761 Office 808-669-0423
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Mahalo,

Patrick T. Sullivan
Principal Broker/Owner
Sullivan Properties, Inc.
10 Hoohui Rd. #110
Lahaina, HI. 96761
Cell: 808.870.6428
Fax: 808.669.8409
www.mauiresorts.com

10 Hoohui Road Suite 110, Lahaina, Hawaii 96761 Office 808-669-0423
Toll Free 800-326-9874 Fax 808-669-8409 Email info@MauiResorts.com

March 25, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggested changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that "***Nothing in this section shall be deemed to create an employer - employee relationship***" between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements

that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Michelle Balucan
SunQuest Vacations
808-329-6438

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 24, 2015 12:41 PM
To: CPCtestimony
Cc: waikoloavrm@aol.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/24/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rob Dalton	Waikoloa Vacation Rental Management	Comments Only	No

Comments: Aloha, I operate a vacation rental business on the Big Island and represent over 100 owners. When I started the business over a decade ago it was required of me to get a real estate brokers license in order to manage properties in Hawaii. I do not do sales, I strictly do property management. It was required. The law has not changed, but apparently it has become forgotten as you will see the amount of testimony from folks operating unlicensed or using people unlicensed. I believe Act 326 was taking a stab in the right direction at addressing the issue, but the terminology was taken wrong. The term "local contact" needs to be changed to "on island agent" to make it consistent with existing laws. Although this issue has been being addressed for several years now and things have gotten deeper and more complicated I feel the question is really simple. Does the State of Hawaii want the vacation rental industry, which generates hundreds of millions of tax dollars, run by licensed professionals or just by anyone? It has been run by licensed professionals for years and it has worked for tax collection, consumer protection, protection of state and federal laws, etc so I am not sure why a change would even be considered. Thank you for your time. Mahalo, Rob Dalton
Waikoloa Vacation Rental Management

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 22, 2015 9:04 AM
To: CPCtestimony
Cc: honolulub@aol.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/22/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Cook	Captain Cook Real Estate	Comments Only	No

Comments: I am basing this testimony on my 38 years as a licensed real estate agent in the state and on my 20 years experience as a legal vacation rental operator. To avoid conflict among state licensing requirements for property management, I strongly encourage SB519 be written to be consistent with HRS 467 1 and 2 which requires an active real estate license for anyone managing property for more than one owner. From the licensing standpoint a rental is a rental, whether the renters stay for one week or one year or more. If our objective is to tighten control of vacation rentals it makes no sense to me to allow for looser licensing regulations for this type of rental. Stay consistent.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 10:28 AM
To: CPCtestimony
Cc: timberlineventures@gmail.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
James Long	Timberline Land Co. HI, LLC	Support	No

Comments: I support SB519, please pass SB519 and make Act 326 permanent Mahalo for the opportunity to provide testimony James Long

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 20, 2015 8:59 PM
To: CPCtestimony
Cc: prentissc001@hawaii.rr.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/20/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Prentiss	Kailua Neighborhood Board	Support	No

Comments: The State Tax Department has had difficulty enforcing the TAT tax on vacation rentals. This is a simple measure to assist them in performing that task.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 5:28 AM
To: CPCtestimony
Cc: adaeschen@yahoo.com
Subject: *Submitted testimony for SB519 on Mar 25, 2015 14:00PM*

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ada Eschen	Individual	Support	No

Comments:

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Dear Members of the Committee:

I support SB519 SD2 HD1 and hope that you, too, will support this bill.

Its drafters have created a workable bill, one that builds upon the effort so many made in 2012 to create *Act 326*. Its practicality lies in its extension of the respect *Act 326* demonstrates for constitutional values and provisions of trade agreements to which Hawaii is a party. It's cleverness, however, lies in the focus it pays to driving progress and continuity. This is soundly evidenced in the important responsibility it directs to the Hawaii Department of Taxation to assist all in further efforts to build upon this work to make a complex issue clearer, and solutions to challenges identified compliant with core constitutional and trade agreement principles, values, and obligations.

The amendments evidenced in SB519 SD2 HD1 respect broad-based efforts to bring about an effective and workable solution for the State, its residents, its investors, and the global consumers of Hawaii's tourism export who seek in Hawaii a broad array of accommodation choices.

I do note that in previous testimony on this bill, and in an earlier Committee's report in advancing the bill, reference was made commending to you and others the suitability for the *State* of Hawaii actions taken by the *City* of San Francisco, California on illegal vacation rentals. It's curious why this single California *city* was touted by the above as one whose actions were worthy of commendation and, further, of adoption by the *State* of Hawaii, especially in respect of the fact that with its law mere weeks old, the California city had to revisit it, as key provisions were found to be "unenforceable."

That said, if the city-model is the way to go, cities around the globe are responding to this emerging issue of vacation rentals made possible through the consumer-empowering accessibility of the Internet. Not one of them is pointing to this California city's approach — or any one city's single approach — as somehow having cracked the DaVinci Code on illegal vacation rentals. Far from it, in fact. Even the most cursory of media searches reveals that such jurisdictions are learning about their marketplace, the complexity of the issue, and the policy tools currently available and under development elsewhere *in order to build an approach that's right for the dynamics of their unique location and situation*.

I doubt that anyone in the Hawaii legislature would short-change and denigrate Hawaii by accepting a single-source, vested- and special-interest tout that any one solution to vacation-rental challenges, as proposed by the cities of Toronto, Vancouver, Quebec City, Los Angeles, New York City, cities in Florida, Texas, and myriad other locales in both countries, and in the UK, and continental Europe — or yes, even San Francisco — is exactly, perfectly right for Hawaii, right off the shelf, right out of the box.

But I can certainly see why a Hawaii single- and special-interest might want Hawaii legislators to commit such a policy blunder: the vested-interest will gain, and legislators will be left holding the flaming bag of accountability for the fiasco when it all goes wrong, as it inevitably will, and at the expense of Hawaii taxpayers, and the State's reputation as an enlightened and informed policy jurisdiction.

If Hawaii is to embrace out-of-state *city* approaches, better to take the San Francisco reference in proper policy context — as an opportunity to see what a range of other markets are doing in identifying, quantifying, understanding, and addressing vacation rentals. And in that broad approach, grounded in thorough research, determine if, through all of this policy work, there are components, big or small, that fit the unique characteristics and needs Hawaii and that should be imported to the State as is, or customized for Hawaii use and relevance at our shores.

I believe this is an approach that all who put Hawaii ahead of the desires of a single, special interest would favour and be willing to work cooperatively to support. Rest assured, Hawaii special interests seeking your action to create monopolies and state nationalization of the investments of others will be quick to urge you to disregard thorough policy research and formulation, and support the easy-button solution they want, and that they want in place right now. Sadly, it's just the way of folks who consider getting what suits only them from the Hawaii State Legislature as their exclusive and special entitlement.

Accordingly, passing bill SB519 SD2 HD1 in its current form would bring improvements to the current situation. At the same time, it would allow all to benefit from the well-spent time and effort to undertake this broader examination of the issue in the search for fair, balanced, workable and relevant solutions for Hawaii which the character and unique qualities and features of the State demand.

Again, I do hope you will support SB519 SD2 HD1. It's a bill that will achieve a great many expectations of effective and balanced policy making, and afford the State the chance to understand more about the issue, and the policy tools available to effectively, and legally manage the response to it.

With kind regards,

Adam

From: Annette Lohman <annettelohman@earthlink.net>
Sent: Monday, March 23, 2015 9:44 AM
To: Annette Lohman
Subject: Testimony in support of SB519

Aloha,

Thank you for this opportunity to testify in support of SB 519. This measure would extend ACT 326 to 2020 and represents a rational and fair way to manage the TVR issues with which the legislature has been grappling. If this measure can be enforced, it will go a long ways toward resolving the problems that have been cited and discussed.

Mahalo,

Annette Lohman
Owner of Kihei Akahi, DG07
Kihei, Maui, HI 96753

woodson2-Rachel

From: Bonnie Y. Aitken <baitken@knightart.com>
Sent: Monday, March 23, 2015 11:05 AM
To: CPCtestimony
Subject: Support SB519

Dear Legislators,

I support SB519. Please pass SB519 and make Act 326 permanent.

Bonnie Aitken, owner of a self- managed legal TVR on Kauai

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 9:20 AM
To: CPCtestimony
Cc: carabirk@gmail.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cara Birkholz	Individual	Support	No

Comments: I support SB519 SD2. Mahalo. Cara Birkholz, Kihei.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 24, 2015 7:46 AM
To: CPCtestimony
Cc: it@pinninvest.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/24/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Eckel	Individual	Support	No

Comments: Dear Honorable Representative McKelvey and Honorable Representative Rhoads and Honorable Members of the House Committees on Consumer Protection and Commerce and Judiciary: I support SB519 SD2 HD1 with comments, and hope the bill receives your support as well. Much has been said and written about Transient Vacation Rentals (TVRs) this session and these past several years. A great deal of what has been said and written has been of little help to all who share a view that Hawaii policy formulation, analysis, and implementation should set a high bar, one that reflects and accommodates the unique and so very special qualities, characteristics and needs of the State of Hawaii. I think all would find it in them to acknowledge the view that no matter what laws a legislature may create, said laws do little to achieve the intent of the legislators, or the will of the public they are designed to protect and advance unless these laws are enforceable in the first instance, and enforced in the second instance. It is for this reason that I support SB519 SAD2 HD1: The approach advocated by this bill builds upon clever legislative action and judgment in 2012 that created Act 326, and takes that enforceable Act to that desired higher level of Hawaii relevance by allowing the Hawaii Department of Taxation (DoT) to increase enforcement of non-paying TVRs. And in doing that, it ensures that the State can and will be collecting the tax revenues due to it through the most appropriate agency for the job, i.e. the Hawaii Department of Taxation while continuing to allow Hawaii counties and cities the discretion, flexibility, and the jurisdictional leadership to understand, consider, and resolve their interests in resolving illegal TVRs in their locales. While I do support SB519 SD2 HD1, I propose, however, that in light of the great benefits it brings to a complex situation, its one shortcoming is that it extends Act 326 for only one year. I understand how this 'one-year extension' may very well be the result of a view that with much uncertainty, it's best not to over-commit. So about that, let me say that in Act 326 and in the other aspects of SB519 SD2 HD1 the Hawaii State Legislature has got it right, continues to get it right, and should have confidence in both and rest easy that the clever and responsible path it is on makes a five-year extension of Act 326 — or even the outright removal of the sunset clause — an apt and secure outcome of its solid leadership and substantive, confident management of this complex, demanding policy area. Indeed, we've heard about 'lame-duck teams' in sports, and 'lame-duck presidents' in government, monikers that arise when seasons and terms are winding down. Like it or not, it is human nature not to take something seriously when it's known the end is near, the clock running out. A Hawaii Department of Taxation, or any agency, really, may well take the same approach if it knows Act 326 is a 'lame-duck Act.' I urge you to rid this complex and critically important policy area of that 'lame-duck' shadow by extending the sunset provision of Act 326 to five years, or by removing it completely: Let's emphasize the robust

aspects SB515 SD2 HD1 in its enforceable provisions by removing this on aspect that serve to undermine the State's commitment to enforcement. Earlier, the DoT said of Act 326 that it was what the DoT needed to enforce tax compliance. Let's give Act 326, which only saw implementation a year ago, every chance to achieve the success and effectiveness envisaged by your efforts and the work of so many others in crafting it. I note also that it was mentioned in the Committee of Tourism Report that your Committees should consider adopting the San Francisco model for transient accommodations, in terms of requiring listing tax numbers on advertisements, key management, and safety disclosures. I wonder if you also found this reference to the California city a curious one? Indeed, the California city's model requires their version of General Excise tax (GET) and Transient Accommodation Tax (TAT) be listed on TVR advertising. The State of Hawaii dealt with this issue in 2012, and it's a key requirement of Act 326. The California city's model requires disclosures as to key management. The State of Hawaii dealt with this issue long ago in HRS 467, HRS521, and in Act 326. The California city's model requires disclosures on safety. Again, the State of Hawaii dealt with this issue long ago in Act 326, HRS 467 and HRS521. If imitation is the sincerest form of flattery, I would hope city legislators in this California city have acknowledged the State of Hawaii's leadership in developing the effective approach the city has seen fit to embrace and adapt for particular and unique needs and circumstances. Again, I support SB519 SD2 HD1. I would hope that in finding support for it as well, you would remove the shadow from this critically important policy area by extending the sunset provision of Act 326 to five years, or by removing it completely. Such action would indeed emphasize the robust aspects SB515 SD2 HD1 in its enforceable provisions, and move us further along the road to regular and effective enforcement. Sincerely, Catherine Eckel

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 7:06 PM
To: CPCtestimony
Cc: Palekaiko@hawaiiantel.net
Subject: *Submitted testimony for SB519 on Mar 25, 2015 14:00PM*

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Della Halvorson	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 10:13 AM
To: CPCtestimony
Cc: don.debienne@icloud.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Donald Debienne	Individual	Support	No

Comments: I am an owner of a transient vacation rental on the Big Island. I have always been and am currently in compliance with all aspects of Act 326. I have studied and am in full SUPPORT of Bill SB519 SD2 HD1 as tabled and encourage a YES vote on this bill. Thank you.

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From: Elen Stoops <stoopse@gmail.com>
Sent: Monday, March 23, 2015 5:10 PM
To: CPCtestimony; JUDtestimony
Subject: 3/25 Hearing, Support SB519

Dear Legislators,

Thank you for the opportunity to provide testimony on HB519 HD2 SD1

I own and rent a Maui condo in a resort/commercial zone. I am in compliance with Act 326.

I support SB519 SD2 HD1 and request that Act 326 be made permanent law.

I offer the following comments:

Act 326 already contains the requirements proposed by SB519.

Specifically Act 326 requires that all online advertisements must contain a valid certificate of registration (also known as Tax ID) or the owner of the property shall be deemed in violation of State Law.

When SB519 was amended from its original form and to make Act 326 permanent or extend it to 5 years, testimony in support was received from the following groups:

Hawaii Government Employees Association,
Maui Hotel and Lodging Association,
Hawaii Appleseed Center for Law and Economic Justice
RBOAA,

a number of owners of legal vacation rentals.

Counties, not the State determine which rentals are legal or illegal through their zoning and issuance or withholding of special (or non-conforming use) permits.

Improper reference to or usage of the term "illegal TVRs" has made it difficult to clearly convey objectives for new State legislation. Whether a TVR is legal or illegal must first be understood and this is decided by County ordinance.

Measures to make a "illegal TVR" legal, through a County's permitting procedure are of an entirely different category than laws pertaining to legal responsibilities of a legal TVR (to pay taxes for example).

Laws for taxation and consumer protection are those more properly discussed in context of State Laws and are more generally the domain of the State Legislators.

Compliance with tax code and "leveling the playing field" for fairness to hotels is already codified in Act 326. Tax collections, overseeing proper remittances, ensuring legal compliance to requirement that internet

advertisements contain the proper Tax IDs, and applying tax fairness is the domain of Hawaii State Department of Taxation and is applicable to SB519 or Act 326.

Act 326 was created 3 years ago and was uniquely developed and suited for Hawaii's State and County interests for Legal TVRs

In reference to the Committee Report provided by Tom Brower making reference to San Francisco ordinance, I request that Legislators carefully reflect upon which parts of the legislation are appropriately State vs. County responsibility.

It would be difficult to find a compatible overlay of San Francisco's very different zoning law objectives and tourism economic objectives to those of the State of Hawaii.

Act 326 was created and codified following involvement of Hawaii's key stakeholders - Legislators, the Department of Taxation, Hawaiian Realtor Officials, RICO and Representation of owners of legal vacation rentals.

I ask that the legislators look favorably upon the work that has been done already to ensure all owners of legal vacation rentals are supporting the "level playing field". Please make Act 326 permanent and vote to Pass SB519.

Mahalo.

woodson2-Rachel

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 8:28 PM
To: CPCtestimony
Cc: jann@dccnet.com
Subject: *Submitted testimony for SB519 on Mar 25, 2015 14:00PM*

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jann Mittlestead	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 1:03 PM
To: CPCtestimony
Cc: jillfletcher1966@yahoo.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jill Fletcher	Individual	Support	No

Comments: I support SB519, please pass SB519 and make Act 326 permanent! Mahalo.

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 10:32 AM
To: CPCtestimony
Cc: jill_oudil@telus.net
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jill Oudil	Individual	Support	No

Comments: I totally support SB519. Please pass this Bill and make Act 326 permanent. Mahalo

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Joe Slabe
C312, 2531 S. Kihei Road
Kihei, HI
96753

March 22, 2015

Honorable Members of the House Committee on Consumer Protection & Commerce
Honorable Members of the House Committee on Judiciary

I fully SUPPORT SB519 SD2 HD1.

I would like to take this opportunity to challenge our opponent's testimony in which he confuses his desired legislation with actual legislation. HAVRM represents realtors who stand to gain handsomely from legislative action that would force TVR owners to have to use their services instead of managing their own properties, which is an inherent right of ownership. Please note HAVRM includes a Real Estate Commission newsletter in their testimony which the REC later withdrew and corrected in August 2014.

The existing legislation is simple.

First, HRS 467-2(1) (the real estate code) provides that an owner can act as a real estate broker for his or her own property. This means that an owner can rent, lease, sell and manage his/her own property.

Second, HRS 521-43 (the landlord tenant act) requires that "Any owner or landlord who resides without the State or on another island from where the rental unit is located shall designate on the written rental agreement an agent residing on the same island where the unit is located to act in the owner's or landlord's behalf." HRS 521 does not define "agent" and so the definition is inherent in this clause – i.e. resident on island. It does not say the agent is an employee, a caretaker, a custodian or a real estate agent.

Third, Act 326 Session 2012 defines local contact as "an individual or company contracted by the operator of the transient accommodation to provide services required by this section. Nothing in this section shall be deemed to create an employer-employee relationship between an operator and its local contact." Act 326 states that transient accommodations are governed under the landlord-tenant code (i.e. not governed under the real estate code). The local contact is not in an employer-employee relationship with the owner (meaning the local contact can work for more than one person) nor is the local contact a licensed real estate agent. By comparing the definitions of "local contact" in Act 326 and "agent" in HRS 521, you will easily conclude they are the same position, just with different names. Neither is permitted to perform the functions of a real estate licensee, but exist for consumer protection. The functions of local contact are far from a full time job and therefore, they need to support multiple owners to be economically viable.

So, if we put all this together, we see that an owner can rent and manage his/ her own property and must engage a local contact or agent resident on island if the owner lives off-island. If the owner elects not to manage her own property, the real estate code and the landlord tenant state that either a custodian / caretaker (who, under the real estate code can only work for one owner and is not a real estate broker), a Condo Hotel operator or a real estate broker must be engaged only if the owner does not self-manage her property. HRS 467(2)-1 allows owners to manage their own property.

You have been told that off-island owners are scam artists. There are scam artists out there. I had my website copied onto Craigslist by someone operating out of N. Carolina on behalf of someone in Nigeria. They were trying to rent my property without my knowledge or consent. No law passed anywhere in the world is going to stop this type of scam.

There are issues with transient accommodations in Hawaii, yes. The counties need to set up zones where transient accommodations can exist and where they cannot exist. The Counties of Maui and Kauai have done a great job in this regard. The DoT needs to identify who should be paying taxes and how much they should be paying. Act 326, extendible in SB 519, goes a long way to addressing tax collection issues through the inclusion of the tax number in advertisements and the annual reporting by HOA's. The DoT must be allowed to work out the process and make use of the data they are collecting. Let's give the DoT the chance to succeed. But, most importantly, both the counties and the DoT need to enforce the rules on the books and for that they need some resources. The increased tax collection will fund these resources. And really, all you need are some web savvy individuals and the willingness to use advertising as evidence of activity.

Please understand who the local contacts are. There is a cottage industry of contractors, cleaners, and handymen, all local and resident on the Hawai'ian islands who have evoked their entrepreneurial skills and created businesses and employment opportunities, who are serving as our local contacts. My own local contact employs over a dozen people, ranging from full time to casual employment. There is no justification for putting these local entrepreneurs out of business, just to appease some lobbyists.

I note that the Tourism committee asked you to consider the San Francisco experience in managing transient accommodations. I would recommend proceeding cautiously. San Fran is a city of 47 square miles with a population density of 17,000 per square mile, Hawaii is a state of 6423 square miles and a population density of 212. Hawaii is dependent on tourism, San Fran is not. Be careful not to import a foreign solution to a foreign problem into Hawaii.

Mahalo for your time and for your service to the people of Hawaii.

Kindest regards,

Joe Slabe

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 22, 2015 9:04 AM
To: CPCtestimony
Cc: john.eckel@pinninvest.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/22/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
john eckel	Individual	Support	No

Comments: I have been a legal and tax paying TVR owner on Maui for 25 years and I SUPPORT this bill. Hawai'i is unique and it requires its own unique solutions to TVR's. A five year extension of Act 326 will provide time to gather facts and review potential solutions. There have been many unsubstantiated reports about TVRs operating in residential neighborhoods and TVR owners failing to pay taxes. Many of the unsubstantiated accusations have been made by those who have a vested interest and would benefit by having burdensome restrictions put on legal, taxpaying TVRs. A five year extension of ACT 326 should allow sufficient time to differentiate fact from fiction. As a unique location, Hawai'i should be wary of adopting a foreign solution imported from a densely populated mainland city as a solution to its problems. The result could be like giving chemotherapy to a patient with a cold. It could seriously jeopardize the health of the patient. Tourism, including TVR's are vital to Hawaii's economy and it will be best to develop solutions targeted to Hawaii's unique needs, and not that of another locale. Please support SB 519 Respectfully submitted John Eckel

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March 25, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggested changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that "***Nothing in this section shall be deemed to create an employer - employee relationship***" between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their “Local Contact” are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State’s demonstrable record of aggressive “zero tolerance” enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the “Local Contact” within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code’s requirements for its “Local Contact” consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the “Local Contact” of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Kahea Zietz, Realtor and Property Manager

woodson2-Rachel

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 4:36 PM
To: CPCtestimony
Cc: crumps5@sbcglobal.net
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Katie Crump	Individual	Support	No

Comments: I support SB519 and ask that legislators make Act 326 permanent law. Thank you!!

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woodson2-Rachel

From: Linda Mitchell <lindafinearts@gmail.com>
Sent: Monday, March 23, 2015 6:17 PM
To: CPCtestimony
Subject: Support of SB519 and the making of Act 326 permanent

Hello,
I support SB519. Please pass SB519 and make Act 326 permanent.
Thank you.
Linda Mitchell

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 22, 2015 5:36 AM
To: CPCtestimony
Cc: marshavaughn3@att.net
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/22/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Marsha Vaughn	Individual	Support	No

Comments: Aloha, Thank you for the opportunity to testify. I am writing in support of this measure as it has been amended. I would also like to add that while I have heard there is some thought about using other cities such as San Francisco as a model for vacation rental laws that this seems to be not a very well thought out idea. Other cities are also struggling with different aspects of this issue and although they may have passed laws, the laws are being contested. The Hawaiian economy, which is so dependent upon vacation rentals and tourism, is a unique economy and to do all of your constituents justice, this issue should be considered with this uniqueness in mind, not by adapting another city's solutions. Mahalo Marsha Vaughn

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 4:16 AM
To: CPCtestimony
Cc: mhubner@halehubner.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Hubner	Individual	Support	No

Comments: Thank you for the opportunity to provide testimony. I would like to voice my support of SB 519 SD2. As a legal owner of a transient vacation rental, I have supported Act 326. I believe authorizing it for an additional 5 years will allow for legitimate studies to be drafted to evaluate TVRs across the state and develop enforcement to ensure all are responsibly paying their taxes. I hope that you will support this bill, and I hope that the reports mentioned in this draft and their sources are shared with the public and stakeholders prior to the commencement of future legislative sessions. Mahalo. Matt Hubner

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Support SB519 SD2 HD1 with amendments.

Thank you for the opportunity to testify.

The issues of transient accommodations falls under:

1. Tax Compliance
2. Landlord Tenant Codes
3. Complying with local zoning and permit, if applicable.

In 2012 when HB2078 CD1 was passed and enacted as Act 326 it was after much consideration by the legislators who were part of its final framing. It was carefully considered and did address the above issues. At that time, the director of the Department of Tax (DoT) testified that if tax I.D. numbers were required in advertising it would assist with tax compliance. Act 326 reaffirmed the need for a local contact as already existing law 521-43(f) states. It further provided "each county shall provide the department with information necessary to enforce this section. " Also, the DoT "shall provide the counties with information necessary for the enforcement of county real property tax laws."

Act 326 addresses: 1. tax compliance, 2. reaffirms property owners must comply with landlord tenant codes, and 3. provides for the DoT and the counties to share information.

Please make Act 326 permanent rather than extending it for one year. As the DoT commences its work of providing an annual report along with recommendations, it fully provides for any further adjustments in tax compliance that might become necessary as actual work is done to assess compliance. To date, all references by those testifying as to the level of compliance, is antidotal. Please rely upon factual studies performed by the DoT before making further changes.

The DoT website states that a significant aspect of compliance is education. They go to great lengths to post reference material and hold workshops for the general population regarding tax compliance. Equally, education is also a significant aspect of compliance for those who rent short (or long) term rentals. The stability of maintaining the same core laws, with minor modifications leads to greater compliance. The more the laws are changed, the LESS compliance there always will be as people have to educate themselves to understand the new requirements. By enacting Act 326 on a permanent basis, it provides for stability leading to enhanced compliance.

Please also amend the \$1,000 a day fine that is in the current version of this bill. While I support the State and DoT's need to apply an incentive for compliance, this level is not

consistent with current Hawaii penalties for similar offenses. For example, if one does not obtain a GE license, the fine is "not to exceed \$500." If it is a cash-based business the fine is "not to exceed \$2,000." That is quite a bit different than \$1,000 a day which could quickly total into the tens of thousands. As a cash business is considered high risk for non-compliance and therefore a special higher rate of fine -- surely it cannot be argued that a landlord is a higher risk than a cash based business.

If the committee is also reviewing the San Francisco laws as referenced by the last committee, I would ask you to consider that Hawaii has already carved this path decades ago. San Francisco enacted their law last month and already is indicating they need amendments. The environment in the city of San Francisco is very different from that of the State of Hawaii.

Thank you for the opportunity to testify.

R. Stewart

March 24, 2015

The Honorable Angus L.K. McKelvey, Chair
House Committee on Consumer Protection & Commerce
The Honorable Karl Rhoads, Chair
House Committee on Judiciary
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S. B. 519 SD2 HD1, RELATING TO TAXATION.

Aloha Chair McKelvey, Chair Rhoads, Vice Chair Woodson, Vice Chair San Buenaventura, and members of the Committees.

This testimony is offered in **Support** of SB 519 SD2 HD1 with suggested changes necessary to improve this Bill, and correct defects within ACT 326, Session Laws of 2012 that this Bill would modify.

The definition of the "Local Contact" as described in Section 2 of ACT 326 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that "***Nothing in this section shall be deemed to create an employer - employee relationship***" between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements

that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 HD1 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 HD1 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Sheri Maffeo
Boundless Hawaii LLC
75-5870 Walua Rd #201
Kailua Kona, HI 96740
808-334-0548

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 23, 2015 10:30 AM
To: CPCtestimony
Cc: tgardiner@intergate.ca
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

SB519

Submitted on: 3/23/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Terry Gardiner	Individual	Support	No

Comments: I support SB519, please pass SB519 and make Act 326 permanent. Mahalo for the opportunity to submit testimony.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 24, 2015 2:25 PM
To: CPCtestimony
Cc: kristin.maksic@gmail.com
Subject: *Submitted testimony for SB519 on Mar 25, 2015 14:00PM*

LATE

SB519

Submitted on: 3/24/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kristin	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 24, 2015 3:49 PM
To: CPCtestimony
Cc: ajh@mauimahana.com
Subject: Submitted testimony for SB519 on Mar 25, 2015 14:00PM

LATE

SB519

Submitted on: 3/24/2015

Testimony for CPC/JUD on Mar 25, 2015 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Alicia Humiston	Individual	Support	No

Comments: I support SB519 with comments. I feel that Act 326 should be put in place permanently. There have been many laws discussed for years on how to make sure that people are paying their taxes. It has been just that, talk. It is time for some enforcement and Act 326 gives the DoT the information they requested to enforce non-taxpayers. There has been 2 years worth of money spent on computer programing and gathering data, DoT needs to step up and enforce Act 326. It was mentioned in the Committee of Tourism Report that you should consider adopting the San Francisco's model for transient accommodations. Specifically that: 1. GET and TAT numbers be listed on advertised units. Act 326 already addresses this. 2. Disclosures as to key management. Act 326, HRS 467, HRS 521 already address these issue s. 3. Safety. Act 326, HRS 467 and HRS 521 already address these issues. If anything, I would think that San Francisco did a model after Hawaii's laws. SF is a City ordinance not a State law. Due to zoning, permitting etc. that the counties are better suited for making and enforcing TVR's for their specific islands. I believe that the changes, if enacted in this bill, will allow the DoT to enforce non paying TVR's and let the counties and cities deal with their zoning and enforcement of TVR's. Respectively Submitted, Alicia Humiston

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